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| 10/523,650 | 02/04/2005 | Giuliano Cavaglia | CAVA3001/JEK | 9565 |
| 23364 7590 02/20/2008 BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314 | | | | |
| EXAMINER | | | | |
| LSTVOYB, GREGORY | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/523,650

Applicant(s)

CAVAGLIA, GIULIANO

Examiner

GREGORY LISTVOYB

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 56-108 is/are pending in the application.
- 4a) Of the above claim(s) 57, 58, 64-83 and 108 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 56, 59-63 and 84-107 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Claims 57, 58, 64-83 and 108 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected apparatus, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/27/07.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 56, 59-63, 84-92, 95, 97, 101-107 rejected under 35 U.S.C. 103(a) as being unpatentable over Coover et al (US patent 3075952) herein Coover in combination with Kerpes et al (US 5362844) herein Kerpes and evidences by Jones (US patent 5409983) herein Jones .

Coover discloses a process for the solid phase continuous polymerization of polyesters, comprising the following steps:

Preparing a mass polyester prepolymer particles, comprising at least one polyester (see Examples 1A and 1B).

feeding crystallised particles at a temperature within the range 170 °C - 300°C (Column 2, line 25) into an horizontal, cylindrical, rotary reactor, which is being slightly inclined (Column 4, line 20 and Column 5, line 15) downwardly from a feeding end (Column 5, line 15); producing a purge gas flow inside said reactor (Column 2, line 25), which fluidize the particles; causing the intrinsic viscosity (IV) of polyester to increase typically on 0.4 units (column 5, line 35).

Note that Coover does not teach that his particles are granules. However, he disclose that particle size of his prepolymer is between 30 and 70 mesh, which is within the range of typical granule size (1-4 mm).

In reference to claims 89, 92 Coover discloses a polyester, based on terephthalic acid (Claim 9), polymerized in 1:1 ratio with glycol. Therefore, the terephthalic acid provides 100% of acid moieties. The initial IV is within the range of 0.1-0.4 (see Column 4, line 15), which meets the limitation of Claim 92.

Regarding Claim 91, this is an examiner's position that required intrinsic viscosity values can be achieved by an artisan by adjusting technological parameters of the process depending on the grade of PET produced.

In reference to Claim 95, since carboxylic end groups content depends on Molecular weight of polymer. Since Coover discloses the same range of molecular weights, the content of end acidic groups is in the range of 10-45%.

In reference to Claim 97 and 100 Coover teaches particles more than 5 mm (Column 2, line 30) or less than 3 to 5 mm (Column 5, line 55). Since Coover teaches the same range of particle size as one of the Application, the limitation of particle volume is met.

Coover does not disclose step of feeding polyester prepolymer granules to a crystallizer and heating them where they are heated up to a suitable temperature of about 140°C to about 235°C to cause the crystallisation of the granules. Instead, he teaches crystallization with acetone/water mixture.

Kerpes discloses a continuous process for PET production, which includes crystallization step at 180-230C (see Table 1 and Column 2, line 45).

Since Kerpes's and Application's conditions of crystallization are nearly identical, Kerpes's polyester has the same range of crystallization degree as one of the Application, meeting the limitations of Claims 61-63. Regarding Claim 103, since Kerpes uses the same temperature range for crystallization, residence time of 20 minutes is sufficient for crystallization.

The advantage of Kerpes's temperature crystallization over acetone/water one is that the Kerpes's process does not have any additional ingredients and needs for disposal of hazardous solvents.

Therefore, it would have been obvious to a person of ordinary skills in the art to use Kerpes's temperature crystallization process, since it does not have any additional ingredients and needs for disposal of hazardous solvents.

Regarding claims 84- 87 Coover or Kerpes teaches a reactor purge with dried oxygen-free Nitrogen (Example 1B, Coover). Coover teaches that Nitrogen has Carbon monoxide and less than 2% of Oxygen (see Claim 2, Coover and Column 5, line 5, Kerpes). Coover discloses dried Nitrogen or Air, which does not have any organic impurities. (Column 2, line 65).

Kerpes teaches that dew point of his dried gas is below -20C (see Column 4, line 45). However, use of the dried gas, which has a dew point below -30C is well known in the art. As evidenced by Jones, dried gas can have a dew temperature below -60C (see Example 1). (Note that Jones teaches dried air. However, it is obvious to an artisan to use an inert gas in order to exclude oxidation of the final product).

It would have been obvious to a person of ordinary skills in the art to use dried gas with dew point below -30°C , since it accelerates the reaction, decreasing the residence time, which results in more economically sound process.

In reference to Claim 90, Kerpas teaches PET modified with 2.5% of Isophthalic acid (see Examples 1 to 3).

Isophthalic acid decreases degree of crystallinity of the copolymer, thus, improving its processability.

Therefore, it would have been obvious to a person of ordinary skills of the art to introduce small amount of terephthalic acid in the copolymer to increase its processability.

Claims 93-94 rejected under 35 U.S.C. 103(a) as being unpatentable over Coover in combination with Kerpas and Tung et al (US 4644049) herein Tung.

Coover and Kerpas disclose a process for the solid phase continuous polymerization of Polyethylene terephthalate.

Coover and Kerpas do not teach a solid state polymerization process for Polybutylene terephthalate and Polyethylene naphthalate.

However, solid state polymerization process for the above polymers is well known in the art.

Tung discloses such a process for Polybutylene terephthalate (PBT) (see Column 2, line 20) and Polyethylene naphthalate (PEN) (see Claim 3). Processes for production of PET, PBT and PEN share the same common features. The only difference is that the artisan should adjust technological parameters depending on the type of the polymer and its grade.

Therefore, it would have been obvious to a person of ordinary skills in the art to apply Coover/Kerpes process to Polybutylene terephthalate and Polyethylene naphthalate in order to increase diversity and applicability of the process.

Claims 93, 96-100 rejected under 35 U.S.C. 103(a) as being unpatentable over Coover in combination with Kerpes and Duh et al (US patent 5449701) herein Duh.

Coover and Kerpes disclose the solid-state polymerization of polyesters (see discussion above).

Coover and Kerpes do not teach the shapes of the particles.

Duh discloses a solid-state polymerization for polyethylene naphthalate. He teaches that feeding prepolymer typically contains solid granules in the shape of pellets,

spheres, chips or cubes. Those shapes are advantageous since the formation of undesirable very high molecular weight fraction is reduced (column 1, line 20).

Duh teaches that although at smaller particle size the reaction is more effective due to better diffusion, very small particles has a tendency to stickiness. Therefore there is a limitation for minimal particle size in solid state polymerization (column 1, line 30).

In addition, shape of the particles may play an important role in diffusion processes.

Therefore, it would have been obvious to a person of ordinary skills in the art that particle size and shape (i.e. surface area at given mass) is the most important factor for diffusion of water from the particles. At high surface area equilibrium of post polymerization reaction shifts to molecular weight increase, which makes a process more efficient.

Claim 95 rejected under 35 U.S.C. 103(a) as being unpatentable over Coover in combination with Kerpes and Scannapieco (US 4849497) herein Scannapieco.

Coover and Kerpes disclose a process for the solid phase continuous polymerization of polyesters (see discussion above).

Coover and Kerpes do not disclose that carboxyl end group content should be within the range of 10-45%.

Scannapieco discloses a process for the solid phase continuous polymerization of polyesters.

Scannapieco teaches that carboxyl end group content should be less than 30% in order to achieve high rate of the post-polymerisation.

Therefore, it would have been obvious to a person of ordinary skills in the art to use prepolymer with carboxyl acid group content below than 30% in order to achieve high rate of the polymerization.

Response to Arguments

Applicant's arguments with respect to claims 56, 59-63 and 84-107 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY LISTVOYB whose telephone number is (571)272-6105. The examiner can normally be reached on 10am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GL

/Rabon Sargent/
Primary Examiner, Art Unit 1796